

#02329 EGW:mm 10/24/2008

2008N-0258

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION**

LISA DAVIS, as Mother and Next Friend of
KEYLA JADÉ FOUCH, a Minor,

Plaintiff,

v.

WHITELINE EXPRESS, LTD., a foreign
corporation; CHICAGO TRANSIT
AUTHORITY, a municipal corporation; and
CITY OF CHICAGO, a municipal
corporation;

Defendants.

2008L011908
CALENDAR/ROOM C
TIME 00:00
PI Motor Vehicle

08CV6604

No.

JUDGE CONLON

MAGISTRATE JUDGE COX

CH

Plaintiff Demands Trial by Jury

COMPLAINT AT LAW

Plaintiff, LISA DAVIS, as Mother and Next Friend of KEYLA JADÉ FOUCH, a Minor,
by her attorneys, Corboy & Demetrio, P.C., for her Complaint at Law against defendant,
Whiteline Express, Ltd., a foreign corporation, states as follows:

Count I

Whiteline Express, Ltd. - Negligence

1. On or prior to April 25, 2008, defendant, Whiteline Express, Ltd., was at all times a duly licensed foreign corporation with the State of Illinois and conducted business as a freight transportation company throughout the Midwest area, including Cook County, Illinois.
2. At all times and places relevant, Donald L. Wells was a commercial tractor/trailer operator.
3. At all times and places relevant, Donald L. Wells was an employee of defendant, Whiteline Express, Ltd.

4. At all times and places relevant, Donald L. Wells was an agent and/or servant of Whiteline Express, Ltd.

5. On April 25, 2008, Donald L. Wells, while acting within his capacity as an employee, agent and/or servant of Whiteline Express, Ltd., was operating a commercial tractor/trailer owned by Whiteline Express, Ltd.

6. On April 25, 2008, Keyla Jade Fouch was within the Cermak-Chinatown CTA Station located at 138 West Cermak Road in Chicago, Illinois.

7. On April 25, 2008, Donald L. Wells was operating a commercial tractor/trailer in a northerly direction upon Interstate 94 when he exited the expressway at Cermak Road in Chicago, Illinois.

8. Upon leaving the expressway at Cermak Road, Donald L. Wells drove to the end of the exit ramp and lost control of his tractor/trailer.

9. It was there and then the duty of defendant, Whiteline Express, Ltd., to so own, operate, and maintain said tractor/trailer so as to not cause damage or injuries to others, but in this regard, it was negligent in one or more of the following ways:

- a. Operated said truck at a high and excessive rate of speed for conditions then and there prevailing;
- b. Improperly lost control of said tractor trailer;
- c. Failed to sound horn of impending danger;
- d. Failed to keep a proper lookout for CTA passengers and stations;
- e. Failed to maintain the brakes of said tractor trailer;
- f. Failed to take any evasive action to avoid the collision with the CTA passengers in the station; and

- g. Was otherwise negligent and careless in and about the operation and maintenance of said motor vehicle.

10. As a proximate result of one or more of the foregoing negligent acts or omissions by defendant, Whiteline Express, Ltd., said truck operated by Donald L. Wells collided with passengers in the Cermak-Chinatown CTA Station, including Keyla Jadé Fouch.

11. As a proximate result of said collision, Keyla Jadé Fouch sustained injuries of a personal and pecuniary nature.

WHEREFORE, plaintiff, LISA DAVIS, as Mother and Next Friend of KEYLA JADÉ FOUCH, a Minor, demands judgment against defendant, Whiteline Express, Ltd., a foreign corporation, for a sum of money in excess of the jurisdictional limits established in the Law Division in the Circuit Court of Cook County, Illinois.

Count II

Chicago Transit Authority, a municipal corporation - Premises Liability

Plaintiff, LISA DAVIS, as Mother and Next Friend of KEYLA JADÉ FOUCH, a Minor, by her attorneys, Corboy & Demetrio, P.C., for her Complaint at Law against defendant, Chicago Transit Authority, a municipal corporation, ("CTA") states as follows:

1. On and prior to April 25, 2008, defendant, CTA, owned the Cermak-Chinatown CTA Station located at 138 West Cermak Road, in Chicago, Illinois.
2. On and prior to April 25, 2008, defendant, CTA, operated the Cermak-Chinatown CTA Station at 138 West Cermak Road, in Chicago, Illinois.
3. On and prior to April 25, 2008, defendant, CTA, maintained the Cermak-Chinatown Chicago Transit Authority Station at 138 West Cermak Road, in Chicago, Illinois.

4. At all times relevant, the physical facility of the Cermak-Chinatown CTA Station, through the design and layouts approved by the CTA, was in close proximity of the Interstate 94 northbound exit ramp.

5. On April 25, 2008, Keyla Jade Fouch was within the Cermak-Chinatown CTA Station located at 138 West Cermak Road in Chicago, Illinois.

6. On April 25, 2008, Donald L. Wells was operating a commercial tractor/trailer in a northerly direction upon Interstate 94 when he exited the expressway at Cermak Road in Chicago, Illinois.

7. Prior to April 25, 2008, defendant, CTA, through its agents, directed, controlled and approved the Cermak-Chinatown CTA Station's design, construction, layout, floor plan and building material specifications.

8. It was then and there the duty of the defendant, CTA, to exercise due care in design, constructing and maintaining its Cermak-Chinatown CTA Station so as to not cause damage or injuries to others, but in this regard, defendant, CTA, failed in one or more of the following respects:

- a. Failed to place vertical concrete pillars or poles on the sidewalk in front of the Cermak-Chinatown CTA Station, which would have prevented or diverted vehicles from crashing into said station;
- b. Knew or should have known that the erection and placement of concrete pillars or poles on the sidewalk by the entrance of the station would divert a vehicle from crashing into its station;
- c. Improperly designed the Cermak-Chinatown CTA Station to be within close proximity of the Interstate 94 exit ramp and not protected it from vehicular traffic coming off of the exit ramp;

- d. Improperly constructed the building of the Cermak-Chinatown CTA Station by failing to place vertical concrete pillars or poles near the entranceway of said station;
- e. Failed to adequately and securely construct the entranceway and front of the Cermak-Chinatown CTA Station to preclude or reduce vehicular traffic entering said station; and
- f. Was otherwise negligent and careless in the design, construction and maintenance of the Cermak-Chinatown CTA Station.

9. As a proximate cause of one or more of the foregoing negligent acts or omissions by defendant, CTA, a tractor trailer operated by Donald L. Wells crashed into the Cermak-Chinatown CTA Station.

10. As a result of this collision, Keyla Jadé Fouch sustained injuries of a personal and pecuniary nature.

11. On October 23, 2008, the plaintiff filed an Amended Notice pursuant to 70 ILCS 3605/41 with the General Attorney of the Chicago Transit Authority, and with a representative of the Secretary of the Chicago Transit Board, a copy of which is attached hereto.

WHEREFORE, plaintiff, LISA DAVIS, as Mother and Next Friend of KEYLA JADÉ FOUCH, a Minor, demands judgment against defendant, Chicago Transit Authority, a municipal corporation, for a sum of money in excess of the jurisdictional limits established in the Law Division in the Circuit Court of Cook County, Illinois.

Count III

City of Chicago, a municipal corporation - Negligent Design and Maintenance of Viaduct

Plaintiff, LISA DAVIS, as Mother and Next Friend of KEYLA JADÉ FOUCH, a Minor, by her attorneys, Corboy & Demetrio, P.C., for her Complaint at Law against defendant, City of Chicago, a municipal corporation, states as follows:

1. On or prior to April 25, 2008, defendant, City of Chicago, owned various City viaducts throughout the City of Chicago, including the viaduct located on Cermak Road just east of the Cermak-Chinatown CTA Station.

2. On or prior to April 25, 2008, defendant, City of Chicago, operated various City viaducts throughout the City of Chicago, including the viaduct located on Cermak Road just east of the Cermak-Chinatown CTA Station.

3. On or prior to April 25, 2008, defendant, City of Chicago, maintained various City viaducts throughout the City of Chicago, including the viaduct located on Cermak Road just east of the Cermak-Chinatown CTA Station.

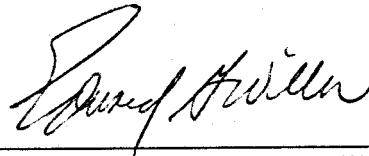
4. On April 25, 2008, Donald L. Wells was operating a commercial tractor/trailer in a northerly direction upon Interstate 94 when he exited the expressway at Cermak Road in Chicago, Illinois.

5. On April 25, 2008, Keyla Jadé Fouch was within the Cermak-Chinatown CTA Station located at 138 West Cermak Road in Chicago, Illinois.

6. On and prior to April 25, 2008, there were no traffic signs posted on the Interstate 94 northbound Cermak Road exit ramp informing motorists that the viaduct on Cermak Road had a maximum clearance of thirteen feet and zero inches.

7. On April 25, 2008, the height of the trailer being hauled by Donald L. Wells was thirteen feet and six inches.
8. On April 25, 2008, the height of the viaduct on Cermak Road just east of the Cermak-Chinatown CTA Station clearance was thirteen feet and zero inches.
9. On the northbound exit ramp leading to Cermak Road exit, no traffic signs were in place informing truckers or motorists of the low clearance of the viaduct.
10. It was then and there the duty of defendant, City of Chicago, to so own, operate and maintain its viaducts so as to not cause or contribute to cause injury to others but in this regard, defendant, City of Chicago, failed in one or more of the following respects:
 - a. Failed to provide adequate signage and warning(s) on the northbound Interstate 94 exit ramp at Cermak Road informing motorists of a thirteen feet and zero inches clearance on the viaduct on Cermak Road;
 - b. Permitted the use of a viaduct, thirteen feet and zero inches, vertical clearance, on Cermak Road, without providing adequate signage which warned motorists of low clearance;
 - c. Failed to reroute truckers to avoid eastbound Cermak Road upon exiting northbound Interstate 94 to avoid low clearances on the viaduct located on Cermak Road; and
 - d. Was otherwise negligent and careless in and about the signage leading up to the viaduct as well as the maintenance of the low clearance of the viaduct on Cermak Road.
11. As a proximate result of one or more of the foregoing negligent acts or omissions by defendant, City of Chicago, a tractor/trailer operated by Donald L. Wells lost control and crashed into the Cermak-Chinatown CTA Station.
12. As a proximate result of said collision, Keyla Jadé Fouch sustained injuries of a personal and pecuniary nature.

WHEREFORE, plaintiff, LISA DAVIS, as Mother and Next Friend of KEYLA JADÉ FOUCH, a Minor, demands judgment against defendant, City of Chicago, a municipal corporation, for a sum of money in excess of the jurisdictional limits established in the Law Division in the Circuit Court of Cook County, Illinois.



Edward G. Willer

Michael K. Demetrio
Edward G. Willer
Corboy & Demetrio, P.C.
Attorneys for Plaintiff
33 North Dearborn Street, 21st Floor
Chicago, Illinois 60602
(312) 346-3191
Firm I.D. No. 02329

FILED
NOV 19 2008
CLERK OF THE CIRCUIT COURT - COOK COUNTY

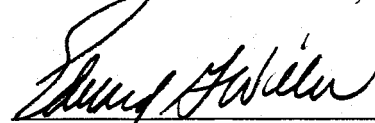
AMENDED NOTICE PURSUANT TO 70 ILCS 3605/41

TO: Secretary of the Board of the Chicago Transit Authority, a municipal corporation
General Counsel of the Chicago Transit Authority, a municipal corporation

You And Each of You, are hereby notified that:

1. The name of the person to whom a cause of action has accrued: **Lisa Davis, as Mother and Next Friend of Keyla Jadé Fouch, a Minor.**
2. The name of the person injured: **Keyla Jadé Fouch.**
3. The residence of the person injured at the time of the occurrence: **7720 South Prairie Avenue, Chicago, Illinois 60619.**
4. The residence of the person injured at the time of the filing of this Notice: **7720 South Prairie Avenue, Chicago, Illinois 60619 .**
5. The date of the accident: **April 25, 2008.**
6. About the hour of the accident: **About 5:20 p.m.**
7. The place or location where the accident occurred: **at the Cermak-Chinatown CTA Station at 138 W. Cermak Road, Chicago, Illinois 60616.**
8. The name and address of the attending physician, if any: **Paul Lewis, M.D., 1900 W. Polk Street, Chicago, Illinois 60612; George Velikagathote, M.D., 1900 W. Polk Street, Chicago, Illinois 60612; John H. Stroger, Jr., Hospital of Cook County, 1900 W. Polk Street, Chicago, Illinois 60612; Farah Hussain, LCSW, 180 N. Michigan Avenue, Suite 2427, Chicago, Illinois 60607 and Chicago Fire Department.**

CORBOY & DEMETRIO, P.C.



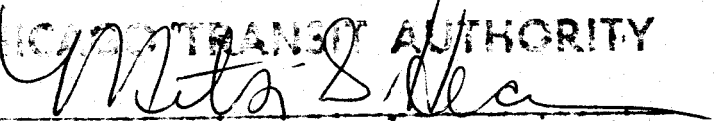
By: Edward G. Willer
One of the Attorneys for Claimant

CORBOY & DEMETRIO, P.C.
Attorneys for Claimant
33 North Dearborn Street
21st Floor
Chicago, Illinois 60602
(312) 346-3191

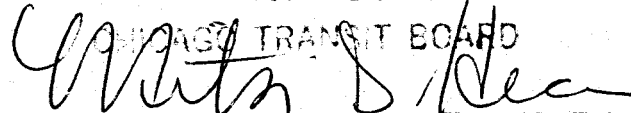
RECEIVED A COPY OF
THE FOREGOING ON

10-23-08

CHICAGO TRANSIT AUTHORITY



FOR THE GENERAL ATTORNEY



FOR THE SECRETARY OF THE BOARD

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

LISA DAVIS, as Mother and Next Friend of
KEYLA JADE FOUCH, a Minor,

Plaintiff,

v.

WHITELINE EXPRESS, LTD., a foreign
corporation; CHICAGO TRANSIT
AUTHORITY, a municipal corporation; and
CITY OF CHICAGO, a municipal
corporation;

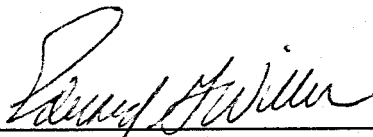
Defendants.

No.

AFFIDAVIT

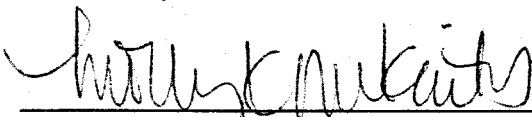
I, **EDWARD G. WILLER**, state under oath:

1. I am an attorney associated with Corboy & Demetrio, P.C. and am responsible for filing of the Complaint at Law in this matter.
2. The total of money damages sought by plaintiff does exceed \$50,000.00, exclusive of interest and costs.



CORBOY & DEMETRIO, P.C.
By: Edward G. Willer

SUBSCRIBED and SWORN to before me
this 11th day of October, 2008.



NOTARY PUBLIC



Michael K. Demetrio
Edward G. Willer
CORBOY & DEMETRIO, P.C.
Attorneys for Plaintiff
33 North Dearborn Street, 20th Floor
Chicago, Illinois 60602
(312) 346-3191
Firm I.D. No. 02329